



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

February 13, 2006

CIRCULAR LETTER No. 2015

**The Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13)
Application to Outstanding Policies**

This Circular Letter supplements the Bureau's Circular Letter No. 2013 that was issued on January 27, 2006 to announce that the National Council on Compensation Insurance Inc.'s ("NCCI") Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) had been approved for use by Massachusetts workers' compensation insurers effective January 1, 2006 for new, renewal, and outstanding voluntary and assigned risk policies.

Implementation Clarification

Since the issuance of Circular Letter No. 2013, a number of insurers have questioned whether the Extension Act Endorsement is mandatory for outstanding policies that were effective prior to January 1, 2006 and will remain in force through part or all of 2006. As a result of those questions, the Bureau advised the Division of Insurance that we would issue this Circular Letter to notify insurers that:

Use of the Extension Act Endorsement (WC 00 01 13) is not mandatory for outstanding policies effective prior to and in force on January 1, 2006 that will expire on or before December 31, 2006 and include NCCI's Terrorism Risk Insurance Act Endorsement (WC 00 04 20).

The Extension Act Endorsement (WC 00 01 13) is mandatory for new and renewal policies effective on or after January 1, 2006 and for any outstanding policies that will expire after December 31, 2006.

Background

Under the Terrorism Risk Insurance Act of 2002 and the Terrorism Risk Insurance Extension Act of 2005 (hereinafter both Acts are referred to as "TRIA"), insurers must provide clear and conspicuous disclosure to the policyholder of the premium charged (on a separate line item in the policy) for insured losses covered by the Terrorism Insurance Program ("Program") established by TRIA and the Federal share of compensation for insured losses under the Program. An insurer's receipt of payment from the Federal government under the Program is contingent upon the insurer's compliance with the policyholder disclosure requirements. Given the importance of the policyholder disclosure, both the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and the Terrorism Risk Insurance Act Endorsement (WC 00 04 20) include a *Policyholder Disclosure Notice*.

Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13)

The Extension Act Endorsement (WC 00 01 13) has a *Policyholder Disclosure Notice* that informs the policyholder that the premium charged for insured terrorism or war losses is shown in Item 4 of the policy Information Page and tells the policyholder that the Federal share under the Program, as amended by the Extension Act of 2005, is 90% for Program Year 4 (1/1/06-12/31/06) and 85% for Program Year 5 (1/1/07-12/31/07). Given TRIA's requirement to disclose the Federal share to the policyholder, the Bureau considered it prudent to seek approval of the Extension Act Endorsement (WC 00 01 13) for use on new, renewal and outstanding policies because the definition of "Federal Share" was amended by the Extension Act of 2005 and also because Endorsement (WC 00 01 13) describes other provisions of the Extension Act that apply to 2006.

Terrorism Risk Insurance Act Endorsement (WC 00 04 20)

The Terrorism Risk Insurance Act Endorsement (WC 00 04 20), which also has a *Policyholder Disclosure Notice*, became effective on December 20, 2002. All outstanding policies should already include the Terrorism Risk Insurance Act Endorsement (WC 00 04 20) whose *Policyholder Disclosure Notice* informs the policyholder that the premium charged for insured terrorism or war losses is shown in Item 4 of the policy Information Page and tells the policyholder that Federal share under the Program would be 90%.

Since the TRIA Extension Act of 2005 retained the 90% Federal share for the year 2006, Endorsement (WC 00 04 20) accurately states the percentage of the Federal share as it relates to outstanding policies effective prior to and in force on January 1, 2006 that will expire on or before December 31, 2006. Therefore, if an insurer were to submit a claim under the Program for a loss occurring in 2006, the Bureau would expect that the accurate statement about the percentage of the Federal share contained in the *Policyholder Disclosure Notice* of Endorsement (WC 00 04 20) would satisfy TRIA's requirement of "clear and conspicuous disclosure to the policyholder." **However, any final determination regarding the adequacy of policyholder disclosures will be made by the Secretary of Treasury, as the administrator of the Program, at the time that an insurer submits its claim under the Program. Therefore, each insurer must determine whether it wants to apply Endorsement (WC 00 01 13) to outstanding policies effective prior to and in force on January 1, 2006 that will expire on or before December 31, 2006.**

The *Policyholder Disclosure Notices* on both Endorsements inform the policyholder that the premium charged for insured terrorism or war losses is shown in Item 4 of the policy Information Page. It is important to note, however, that the Endorsements alone may not be sufficient to satisfy TRIA's requirement of "clear and conspicuous disclosure to the policyholder." For Massachusetts policies, the insurer will need to produce the applicable policy Information Page or the Schedule page on Endorsement (WC 00 04 20) that shows the specific premium charged for insured losses covered by the Program.

Any questions about this Circular Letter may be sent to me at ekeefe@wcribma.org or Daniel Crowley, Vice President of Customer Services at dcrowley@wcribma.org.

Ellen F. Keefe, CPCU
General Counsel